

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)	MM Docket No. 99-153
)	
READING BROADCASTING, INC.)	File No. BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	File No. BPCT-940630KG
CORPORATION)	
)	
For Construction Permit for a New)	
Television Station to Operate on)	
Channel 51, Reading, Pennsylvania)	

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OFFICE OF THE SECRETARY

To: Administrative Law Judge
Richard L. Sippel

MASS MEDIA BUREAU'S COMMENTS ON
ADAMS' MOTION TO MODIFY PROCEDURAL DATES

1. On October 18, 1999, Adams Communications Corporation ("Adams") filed a motion to modify procedural dates. On October 22, 1999, Reading Broadcasting, Inc. ("RBI") filed a partial opposition to Adams' motion. The Mass Media Bureau ("Bureau") now submits its comments on Adams' motion.

2. Examination of Adams' motion and RBI's partial opposition reveals that the parties disagree as to only one procedural date, namely, the date for the close of discovery. Adams seeks to extend discovery to November 26, 1999, while RBI advocates keeping the previously established date of October 29, 1999.

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3. In support of its requested date, Adams states, *inter alia*, that “documents needed to ask questions of key corporate officers have not been available.” Motion at 3. In this regard, Adams points to corporate minutes and contends that RBI has resisted and delayed their production. Adams continues that it did not ask certain questions of three RBI owners and directors and of Micheal Parker because Adams lacked knowledge of the minutes’ contents at the time of the depositions. Adams submits that it has the right to pose those questions in renewed depositions of those individuals. Adams also argues that discovery should be extended because RBI has not provided other materials such as a list of employees, financial statements, representative documents pertaining to the past broadcast experience of RBI principals, and program logs. RBI retorts that the referenced minutes are unrelated to its claim regarding local ownership and that Adams is abusing the discovery process by using discovery to seek information to support motions to enlarge issues. As for the documents not yet produced, RBI represents that it will make every effort to complete production by October 29, 1999.

4. The purpose of discovery is to “facilitate preparation for the hearing, eliminate surprise, and promote fairness.” Discovery Procedures, 11 FCC 2d 185, 186 (1968). Thus, discovery affords the parties a fair opportunity to ascertain the relative strengths and weaknesses of each other’s cases prior to hearing. Assuming that all relevant documents requested by the applicants are ultimately produced, the only questions raised by Adams’ motion are whether Adams should be given a second chance to depose certain RBI principals because it was unfairly stymied during those depositions, and, if so, how much time should be allowed for the taking of those depositions. In this regard, however, Adams’ motion does not explain why Adams chose to go forward and depose RBI

principals notwithstanding RBI's failure to produce documents that Adams now believes are important. Moreover, Adams' motion does not provide much guidance as to what Adams would have asked had it had access to the minutes. Indeed, Adams' argument on this point is simply that "[t]here were relevant lines of questions ... central to the comparative credit for local ownership, that we did not ask because we did not have knowledge of the contents of the minutes." Motion at 4. In short, it is not apparent that Adams has demonstrated that equity warrants an extension of the discovery deadline or that it has a need for further discovery.

5. Accordingly, absent a more particularized showing by Adams that additional discovery is needed, the Bureau does not believe that the date for the close of discovery should be extended insofar as that discovery relates to the standard comparative issue. However, the Bureau notes that by Memorandum Opinion and Order, FCC 99M-61, released October 15, 1999, ("MO&O") a misrepresentation/lack of candor issue was added to this proceeding. The MO&O assigned the burdens of proceeding and proof to Adams and opined that the burdens of discovery and the presentation of evidence can be shared by Adams and the Bureau. However, the MO&O said nothing about whether the discovery schedule should be modified as a result of the new issue. Considering the current activities of the applicants, which include depositions and document production, and considering other current activities, such as the preparation of responses to motions to enlarge and a request for permission to file an appeal, the Bureau requests that any ruling regarding procedural dates allow the parties sufficient time to develop evidence on

the added issue,¹ over and above the time allotted for the completion of discovery on the standard comparative issue.

Respectfully submitted,

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October 27, 1999

¹ In this regard, the Bureau is aware that the disposition of RBI's October 22, 1999, "Request for Permission to File Appeal" may ultimately affect the procedural schedule of this proceeding.

CERTIFICATE OF SERVICE

Karen Richardson, secretary of the Mass Media Bureau's Enforcement Division, certifies that she has on this 27th day of October, 1999, sent by first class United States mail (or by hand) copies of the foregoing "Mass Media Bureau's Comments on Adams' Motion to Modify Procedural Dates" to:

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